 Missouri Department of Natural Resources Administrative Policies and Procedures		
Chapter 1 Employee Relations		
Protection under the Whistleblower's Law Policy	Effective date	Revised
Number: 1.06	October 6, 2003	January 5, 2005

The department appreciates every opportunity to solve problems and address issues. Staff are encouraged to talk about problems and issues and possible solutions with their supervisors or someone in their chain of command. If an employee feels this is not possible and that others outside the department must be contacted, the Whistleblower's Law provides protection for an employee to report

- a violation of any law, rule or regulation; or
- mismanagement, a gross waste of funds or abuse of authority, or a substantial and specific danger to public health and safety, if the disclosure is not specifically prohibited by law.

REFERENCES

Public Officers and Employee's – Miscellaneous Provisions RSMO 105.055
(Missouri's Whistleblower's law)

Right to appeal RSMO 536.100

Missouri's Sunshine Law RSMO 610

Related DNR policies

External Communications 2.01

Sunshine Law Requests 2.02


Leave with Pay 5.01

DEFINITIONS

Appointing authority: A person with the authority to approve hiring staff and to approve or deny other personnel related transactions. In the department the appointing authority to direct personnel action is the Human Resources program director.

Disciplinary action: for this policy disciplinary action means any dismissal, demotion, transfer, reassignment, suspension, reprimand, warning of possible dismissal or withholding of work, whether or not the withholding of work has affected or will affect the employee's compensation.

Operations: activities, processes, rules, regulations and policies of the Department of Natural Resources.

 Missouri Department of Natural Resources Administrative Policies and Procedures		
Chapter 1 Employee Relations		
Protection under the Whistleblower's Law Policy	Effective date	Revised
Number: 1.06	October 6, 2003	January 5, 2005

Supervisor: The employee who directly supervises the work of another employee such as approving time sheets or leave requests, conducting performance appraisals or recommending disciplinary action.

GENERAL PROVISIONS

The following summarizes the provisions of the statute. Please refer to the statute for the complete language and all the provisions. The complete statute language is included at the end of this policy.

Each office shall prominently post a copy of Missouri's Whistleblowers Law in a location where it can reasonably be expected to come to the attention of all employees.

No department supervisors or appointing authority shall prohibit any state employee from or take any disciplinary action whatsoever against a state employee for the disclosure of any alleged prohibited activity under investigation or related activity, or for the disclosure of information which the employee reasonably believes evidences:

- A violation of any law, rule or regulation; or
- Mismanagement, a gross waste of funds or abuse of authority, or a substantial and specific danger to public health and safety, if the disclosure is not specifically prohibited by law.


An employee cannot be required to give notice to the supervisor or appointing authority prior to making any such report.

If an employee wishes to talk with a member of the legislature, state auditor, attorney general or any state official or body charged with investigating the alleged misconduct, about issues related to Section 105.055 (Missouri's Whistleblower's Law) during normal work hours, department leave policies must be followed.

Under this policy, an employee's personal opinions do not necessarily represent the opinion of the department.

Disciplinary action may be taken against an employee who provides information that:

- he/she knew was false.
- is closed or confidential according to provision of Missouri's Sunshine Law.
- relates to the employee's own violations, mismanagement, gross waste of funds, abuse of authority or endangerment of the public health or safety.

 Missouri Department of Natural Resources Administrative Policies and Procedures		
Chapter 1 Employee Relations		
Protection under the Whistleblower's Law Policy	Effective date	Revised
Number: 1.06	October 6, 2003	January 5, 2005

An employee may file an administrative appeal if he/she feels disciplinary action was taken in violation of the law. The appeal is filed with the state Personnel Advisory Board. The appeal shall be filed within thirty (30) days of the alleged disciplinary action. If the board finds that the disciplinary action taken was unreasonable, the board shall modify or reverse the department's disciplinary action and order such relief for the employee the board considers appropriate.

If the board finds a violation of the law, it may review and recommend to the appointing authority that the violator be suspended on leave without pay for not more than 30 days. In cases of willful or repeated violations the board may review and recommend to the appointing authority that the violator forfeit his/her position and disqualify the violator for appointment to another position for a period of not more than two years. The decision of the board may be appealed to the Circuit Court pursuant to law.

An employee may also bring a civil action for damages within ninety (90) days after the occurrence of the alleged violation.

Missouri Revised Statutes
Chapter 105
Public Officers and Employees--Miscellaneous Provisions
Section 105.055

August 28, 2005

State employee reporting mismanagement or violations of agencies, discipline of employee prohibited--appeal by employee from disciplinary actions, procedure--disciplinary action defined --violation, penalties--civil action, when.

105.055. 1. No supervisor or appointing authority of any state agency shall prohibit any employee of the agency from discussing the operations of the agency, either specifically or generally, with any member of the legislature, state auditor, attorney general, or any state official or body charged with investigating such alleged misconduct.

2. No supervisor or appointing authority of any state agency shall:

(1) Prohibit a state employee from or take any disciplinary action whatsoever against a state employee for the disclosure of any alleged prohibited activity under investigation or any related activity, or for the disclosure of information which the employee reasonably believes evidences:

(a) A violation of any law, rule or regulation; or

(b) Mismanagement, a gross waste of funds or abuse of authority, or a substantial and specific danger to public health or safety, if the disclosure is not specifically prohibited by law; or

(2) Require any such employee to give notice to the supervisor or appointing authority prior to making any such report.

3. This section shall not be construed as:

(1) Prohibiting a supervisor or appointing authority from requiring that an employee inform the supervisor or appointing authority as to legislative requests for information to the agency or the substance of testimony made, or to be made, by the employee to legislators on behalf of the employee to legislators on behalf of the agency;

(2) Permitting an employee to leave the employee's assigned work areas during normal work hours without following applicable rules and regulations and policies pertaining to leaves, unless the employee is requested by a legislator or legislative committee to appear before a legislative committee;

(3) Authorizing an employee to represent the employee's personal opinions as the opinions of a state agency; or

(4) Restricting or precluding disciplinary action taken against a state employee if: the employee knew that the information was false; the information is closed or is confidential under the provisions of the open meetings law or any other law; or the disclosure relates to the employee's own violations, mismanagement, gross waste of funds, abuse of authority or endangerment of the public health or safety.

4. As used in this section, "disciplinary action" means any dismissal, demotion, transfer, reassignment, suspension, reprimand, warning of possible dismissal or withholding of work, whether or not the withholding of work has affected or will affect the employee's compensation.

5. Any employee may file an administrative appeal whenever the employee alleges that disciplinary action was taken against the employee in violation of this section. The appeal shall be filed with the state personnel advisory board; provided that the appeal shall be filed with the appropriate agency review board or body of nonmerit agency employers which have established appeal procedures substantially similar to those provided for merit employees in subsection 5 of section 36.390, RSMo. The appeal shall be filed within thirty days of the alleged disciplinary action. Procedures governing the appeal shall be in accordance with chapter 36, RSMo. If the board or appropriate review body finds that disciplinary action taken was unreasonable, the board or appropriate review body shall modify or reverse the agency's action and order such relief for the employee as the board considers appropriate. If the board finds a violation of this section, it may review and recommend to the appointing authority that the violator be suspended on leave without pay for not more than thirty days or, in cases of willful or repeated violations, may review and recommend to the appointing authority that the violator forfeit the violator's position as a state officer or employee and disqualify the violator for appointment to or employment as a state officer or employee for a period of not more than two years. The decision of the board or appropriate review body in such cases may be appealed by any party pursuant to law.

6. Each state agency shall prominently post a copy of this section in locations where it can reasonably be expected to come to the attention of all employees of the agency.

7. (1) In addition to the remedies in subsection 6 of this section, a person who alleges a violation of this section may bring a civil action for damages within ninety days after the occurrence of the alleged violation.

(2) A civil action commenced pursuant to this subsection may be brought in the circuit court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides.

(3) An employee must show by clear and convincing evidence that he or she or a person acting on his or her behalf has reported or was about to report, verbally or in writing, a prohibited activity or a suspected prohibited activity.

(4) A court, in rendering a judgment in an action brought pursuant to this section, shall order, as the court considers appropriate, actual damages, and may also award the complainant all or a portion of the costs of litigation, including reasonable attorney fees.

(L. 1987 H.B. 659 § 1, A.L. 1993 S.B. 180, A.L. 2000 S.B. 788, A.L. 2004 H.B. 1548)